

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

Plaintiff,

Case No. 16-CR-21 (PP)

vs.

SAMY M. HAMZEH,

Defendant.

**MOTION TO SUPPLEMENT RECORD REGARDING
SECOND *Brady* MOTION (ECF No. 135)**

At the July 24, 2018, hearing, Magistrate Judge Duffin addressed the issue of the translations/transcripts that have not yet been produced by the government. The Court asked what the deficiencies were with the transcripts and also inquired about efforts to resolve translation issues. Hamzeh's counsel is concerned that he failed to provide as much specific information as he should have on these issues. To help clarify the Court's understanding of these issues, Hamzeh hereby asks the Court to add to the record a letter defense counsel wrote the government in January as well as a summary of other contacts with the government regarding the transcripts. The January 22, 2018, letter that is attached has been modified from the original to change the names of the informants to Mike and Steve, consistent with other pleadings in this case.

The January 22, 2018, letter spelled out the defense concerns with the translations and also proposed a method for resolving those concerns. The defense understood the government to be agreeable to proceeding in the manner outlined in the letter. That letter

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and the memo that accompanied it about disk 79 were followed up by emails communicating the problems and trying to work towards a solution. These included:

- An email on February 12, asking for disk 104 and a follow-up meeting to discuss the process for having our translator review the translations.
- An email on March 1, again asking for a meeting about the transcripts.
- An email on March 8, again asking for a meeting to discuss the transcripts and an index for the discovery and translations. In addition, on that day the defense submitted proposed revisions to the government's translation of disks 45 and 51.
- An email on March 12, that provided the government with the defense's proposed corrections to disk 86.
- On March 20th, the defense received Disk 104 from the government. The defense also understood that the revised (or final) transcripts would be turned over on a rolling basis and that the final one would be received on May 31.
- On March 22, the defense turned over revisions to the government on Disks 84 (part 2), Disk 45 (parts 1 and 5), Disk 84 (parts 1, 3, and 4).
- On March 23, another email was sent about disk 51.
- On June 6, defense counsel received a call from the government about the transcripts. This was in response to calls from the defense in the previous weeks that were not documented, so we cannot represent the dates.
- The defense continued to believe that the transcripts would be coming soon.
- On May 22, in anticipation of the transcripts, the defense sought Mr. Hamzeh's release to go over the transcripts. A hearing was held, whereby the FBI would bring Hamzeh from the lockup to the third floor two days a week to review the soon-coming transcripts.
- On June 20, the agreement for Hamzeh to review transcripts fell apart and another motion was filed.

- On June 25, a hearing on that motion was held, and afterwards counsel for the defense and government again discussed the transcripts in anticipation that would soon come.
- On June 26, yet another hearing was held – at it, the defense noted for the Court that the transcripts were overdue and the defense's ability to digest them was significantly hampered, so Hamzeh's release to assist was paramount.
- On June 26, the defense received its first “trial ready transcript.”
- On June 27, the defense wrote an email back, noting three problems with it.
- On June 27, the defense also sent the government the corrections to disk 104, which had previously been provided to the defense on March 30.
- In the weeks that followed the defense provided further “perfected” transcripts to the government, which matched the previously disclosed transcripts with the exception that names replaced “CHS.”

Dated at Milwaukee, Wisconsin this 27th day of July, 2018.

Respectfully submitted,

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